

REMARKS/ARGUMENTS

In the Official Action dated January 10, 2007 the Examiner required the election of a single disclosed species from the species recited on page 2 of the Office Action. Accordingly Applicants provisionally elect, with traverse, SEQ ID NO:1.

Claims 1, 2, 12-15 and 16 read on the elected species.

Even though the amino acid sequences in each of SEQ ID NO:1, 2, 3, and 4 may be different, the common inventive concept that links them together as a single inventive entity is that the peptide bond -CONH (amide group) that links Leu to the adjacent amino acid is replaced by a hydroxyethylene group (-CHOH-CH₂-) and wherein the N terminus has an alkylloxycarbonyl group (-COO alky) or a terminal amide group (-N-CO-). It is these modified changes that contribute to the pharmaceutical properties of the claimed invention. Consequently, Applicants request that SEQ ID NO:1, 2, 3 and 4 be examined together.

In chemical cases, a specified group of materials which do not necessarily belong to an otherwise class can be examined together if together they claim operable substances that cannot be defined by generic language but which nevertheless have a community of chemical or physical characteristics. They need only possess one property in common which is mainly responsible for their function in the claimed relationship. The common characteristics and the utility in a generic sense suffices.

Applicants make no statement regarding the patentable distinctness of the species but note that for the restriction to be proper there must be patentable differences.

Finally, Applicants respectfully submit that should the elected invention be found allowable, the Office should expand its search to include the non-elected groups.

Divisional applications filed thereafter claiming the non-elected species should not be subject to a double patenting ground of rejection. 35 U.S.C. § 121, In re Joyce (Comr. Pats 1957) 115 USPQ 412.

Applicants submit that the above-identified application is now in condition for examination on the merits and an early notice of such action is earnestly solicited.

Respectfully submitted,

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A handwritten signature in dark ink, appearing to read "Paul J. Killos", is written over a horizontal line.

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